

HOUSE BILL 2037

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 18, relative to price gouging.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-104(b)(34), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 47-18-5101(3), is amended by deleting the language "a declared state of emergency" and substituting the language "an abnormal economic disruption for goods and services".

SECTION 3. Tennessee Code Annotated, Section 47-18-5101(6), is amended by deleting the language "a declared state of emergency" and substituting the language "an abnormal economic disruption for goods and services".

SECTION 4. Tennessee Code Annotated, Section 47-18-5102, is amended by deleting subdivision (11) and inserting the following new subdivisions:

() "Abnormal economic disruption" means a disruption or anticipated disruption to usual business conditions caused by a natural or man-made disaster or emergency resulting from a terrorist attack, war, strike, civil disturbance, tornado, earthquake, fire, flood, or any other natural disaster or man-made disaster;

() "Costs" means any expense or expenditure directly or indirectly related to the sale of a good or provision of a service or the operation of the person's business;

SECTION 5. Tennessee Code Annotated, Section 47-18-5103, is amended by deleting the section and substituting the following:

(a)

(1) Upon the declaration of an abnormal economic disruption by the governor by proclamation or executive order, and continuing for a maximum of fifteen (15) calendar days, unless extended by a subsequent declaration in any county or municipality covered by the abnormal economic disruption, a person is prohibited from charging any other person a price for the following goods or services that is grossly in excess of the price generally charged for the same or similar goods or services in the usual course of business:

- (A) Consumer food items;
- (B) Repair or construction services;
- (C) Emergency supplies;
- (D) Medical supplies;
- (E) Building materials;
- (F) Gasoline;
- (G) Transportation, freight, and storage services; or
- (H) Housing.

(2) A declaration of an abnormal economic disruption by the governor may specify that only certain goods or services are covered by the prohibition described in subdivision (a)(1).

(b) A price increase is not grossly excessive if the increase was directly attributable to:

- (1) Price increases in applicable regional, national, or international commodity markets;
- (2) Pricing set forth in any pre-existing agreement, including stored and in-transit inventory;
- (3) Additional costs imposed on the person by the supplier of the goods or services; or

(4) Additional costs for labor, services, or materials used to provide the goods or services, including costs of replacement inventory, additional costs to transport goods or services, and additional labor charges.

SECTION 6. Tennessee Code Annotated, Section 47-18-5104, is amended by deleting the section and substituting the following:

(a) A violation of this part is an unfair or deceptive act or practice affecting the conduct of trade or commerce under the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter. However, a violation of this part is not punishable as a criminal offense, and there is no private right of action available to any person injured as a result of a violation of this part.

(b) The remedies and penalties provided in this section are cumulative.

(c) This part preempts any local ordinance prohibiting the same or similar conduct or imposing a more severe penalty for the same conduct prohibited in this part.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to violations occurring on or after the effective date of this act.